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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/094,279	06/09/1998	GUANGLIN SUN	33343-01	8189

26474 7590 01/21/2003

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1350 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

EXAMINER

LEVY, NEIL S

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 01/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/09/27

Applicant(s)

SUN et al

Examiner

Mark Guy

Group Art Unit

1616

34

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 10/18/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 36, 39, 41-61, 63-78, 81-93, 95-100 is/are pending in the application.
- Of the above claim(s) 69, 70, 74-78 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 36, 39, 41-61, 63-68, 71-73, 81-93, 95-100 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 36, 39, 41-61, 63-78, 81-93, 95-100 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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Receipt is acknowledged of Amendment of 10/18/02.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 69, 70, 74-78 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

The restriction had been dropped, as the non-elected products (Paper #7) has in fact been examined. However, continued election requirement, with species elected as AcMNPVP X 1, results in withdrawal of claims that do not include this species.

Claims ~~36, 39, 41-61, 63-68, 71-73, 81-93 & 95-100~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over Miles 5662891 or Bohmetal 4948586 or Fakhrudden – EP 697170, in view of Rheum et al 5560909.

The rejection of record is maintained.

Applicant's arguments filed on 10/18/02 have been fully considered but they are not persuasive. Applicant argues the prior art cited provides, as we understand the traversal, in essence different goals than those of the present invention, and thus the identifiable aspects of this invention were not optimized by any of the prior art. Examiner finds there is no requirement of the prior art to recite the goals and desired improvements of applicant's methods and products, but rather to provide a basis for one in the art to achieve those products and use those methods. The method steps are seen in the cited reference; the ingredients used in those steps not necessarily chosen as would be optimized by the instant invention; while the products are in fact those as

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claimed by the instant language, regardless of process of attaining them. However, the claimed requirements, which are not focused on by, the prior art cited, are not found in the independent instant claim language.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

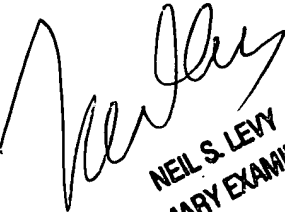
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (703)308-2412. The examiner can normally be reached on Tuesday through Friday 7 AM to 5:30 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on (703) 308-4628. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 872-9307 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Levy/LR
January 13, 2003



NEIL S. LEVY
PRIMARY EXAMINER